

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 8443	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/002083	International filing date (day/month/year) 13.02.2004	Priority date (day/month/year) 14.02.2003
International Patent Classification (IPC) or national classification and IPC B31B 27/00, 23/00, B65D 30/10		
Applicant WINDMÖLLER & HÖLSCHER KG		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.	
2. This REPORT consists of a total of <u>7</u> sheets, including this cover sheet.	
3. This report is also accompanied by ANNEXES, comprising:	
a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:	
<input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).	
<input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.	
b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).	
4. This report contains indications relating to the following items:	
<input checked="" type="checkbox"/> Box No. I	Basis of the report
<input checked="" type="checkbox"/> Box No. II	Priority
<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/> Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/> Box No. VI	Certain documents cited
<input type="checkbox"/> Box No. VII	Certain defects in the international application
<input type="checkbox"/> Box No. VIII	Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/002083

Box No. I

Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-9 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 1-14 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* _____ received by this Authority on _____
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/6-6/6 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. II

Priority

1. ☒ This report has been established as if no priority had been claimed due to the failure to furnish within the prescribed time limit the requested:
- ☒ copy of the earlier application whose priority has been claimed (Rule 66.7(a)).
- ☐ translation of the earlier application whose priority has been claimed (Rule 66.7(b)).
2. ☐ This report has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rule 64.1). Thus for the purposes of this report, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	7-14	YES
	Claims	1-6	NO
Inventive step (IS)	Claims		YES
	Claims	1-14	NO
Industrial applicability (IA)	Claims	1-14	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
1. Reference is made to the following documents:			
D1: DE-A-19920478			
D2: US-A-2002/0168120			
D3: GB-A-1057264			
D4: WO-A-02/057150			
2. The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claims 1-6 lacks novelty (PCT Article 33(2)) and the subject matter of claims 7 to 14 does not involve an inventive step (PCT Article 33(3)).			
2.1. Independent claim 1:			
Document D1 discloses (the references between parentheses refer to that document) a method for producing a bag from a polymer film material (see column 3, line 16), the bottom end of the bag being sealed (see column 3, lines 43 and 44) and the bag comprising four outer walls (see column 3, lines 49 and 50), the material needed to form the			

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

bag, which is in the form of a film tube (5) that is wound onto a reel (4), being fed to the winding arrangement (6) of a bottom-forming device (16, 17), which separates the wound tube (5) into tube parts (21) and seals at least one end of the bag (see column 3, lines 43 and 44).

D1 does not expressly mention that the four outer walls are joined by four seams, but a person skilled in the art would clearly understand the suitability of a film tube having four seams for the bag producing method in D1, since a film tube with or without seams is undoubtedly suitable for the production method as per D1 and, moreover, the design of the film tube (with or without seams) has no bearing on the production method as per claim 1. Furthermore, film bags with four seams are common in the field concerned (see, for example, D2, fig. 2).

The subject matter of claim 1 thus lacks novelty over D1.

2.2. Claims 2 to 6:

The additional features of dependent claims 2 to 6 are also known from D1 (see D1, column 3, lines 49 and 50 regarding claim 2; column 3, lines 34 to 48 regarding claims 3 and 4; column 4, lines 16 to 21 regarding claims 5 and 6).

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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2.3. Independent claim 11:

Document D1 is considered the prior art closest to the subject matter of claim 11 and discloses (the references between parentheses refer to that document) a tubular film (1) with four side walls (4, 5, 7) which are joined together by four seams (15, 16).

The subject matter of claim 11 thus differs from the known tubular film in that the tubular film is in the form of a tubular film winding.

The present invention can therefore be considered to address the problem of storing the tubular film as an intermediate product.

The forming of tubular film rolls as an intermediate product (which are then used to produce individual bags) is common practice in the relevant technical field (see, for example, D3, figure 1 and page 2, lines 101 to 105). It is therefore obvious for a person skilled in the art to solve the stated problem by forming a tubular film roll from the tubular film according to D2. This measure leads to an easily foreseeable result and measures such as this are part of the typical everyday work of a person skilled in the art. Consequently, said measure does not produce an unexpected effect.

The subject matter of claim 11 therefore fails to

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Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

involve an inventive step.

- 2.4. The additional features of dependent claims 7 to 10 and 12 to 14 concern simply useful configurations of the subject matter of claims 1 and 11, which come under the scope of common general knowledge in the art or which are suggested by the prior art (see D2, figure 2, reference signs 15 and 16 regarding claim 8; D4 figure 4A, reference signs 14, 16, 22 and 32 regarding claims 9 and 10; D2, figure 2 regarding claims 12 to 14).

Consequently, dependent claims 7 to 10 and 12 to 14 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT requirements for inventive step.